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DEPARTMENT OF COMMERCE

International Trade Administration

A-549-830

Welded Stainless Pressure Pipe from Thailand: Amended Preliminary Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: (Insert date of publication in the Federal Register.)

SUMMARY: On January 7, 2014, the Department of Commerce (“the Department”) published in the Federal Register its preliminary determination that welded stainless pressure pipe (“WSPP”) from Thailand is being, or is likely to be, sold in the United States at less than fair value (“LTFV”), as provided in section 733(b) of the Tariff Act of 1930, as amended (“the Act”).¹ On January 3, 2014, Ametai Co., Ltd. and Thareus Co., Ltd. (“Ametai/Thareus”) notified the Department that it was withdrawing its participation from the LTFV investigation. Based on the circumstances described below, the Department is amending the Preliminary Determination. This amended preliminary determination results in revised antidumping duty margins and cash deposit rates.

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¹ See Welded Stainless Pressure Pipe From Thailand: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 79 FR 812 (January 7, 2014) (“Preliminary Determination”).

SUPPLEMENTARY INFORMATION:

Case History

On December 13, 2013, Petitioners alleged that Ametai/Thareus misled the Department concerning certain affiliation allegations regarding Ametai/Thareus.² On December 18, 2013, the Department issued Petitioners a letter requesting clarification regarding certain affiliation allegations in their December 13, 2013, submission.³ On December 20, 2013, Petitioners filed their response to the Department's December 18, 2013, letter.⁴ Additionally, on December 18, 2013, the Department issued Ametai/Thareus a supplemental questionnaire regarding certain affiliation issues.⁵ On December 24, 2013, and December 30, 2013, Ametai/Thareus responded to the Department's December 18, 2013, supplemental questionnaire.⁶ In the Department's Preliminary Decision Memorandum, we stated that we intended to continue exploring the affiliation issue for the final determination.⁷

² See Submission from Petitioners, "Welded Stainless Pressure Pipe from Thailand: Comments on Section D," dated December 13, 2013. Petitioners filed their affiliation allegations on December 13, 2013 through Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS") under the one day lag rule; therefore, for the Department's consideration, the official version of this submission is dated December 13, 2013, although Petitioners filed the final version with a date of December 16, 2013.

³ See Letter from the Department to Petitioners, "Antidumping Duty Investigation of Welded Stainless Steel Pressure Pipe from Thailand: Clarification Supplemental Questionnaire on December 16, 2013, Section D comments," dated December 18, 2013. The Department's December 18, 2013, letter was in response to Petitioners' December 13, 2013, filing but dated December 16, 2013.

⁴ See Submission from Petitioner, "Welded Stainless Pressure Pipe from Thailand: Thareus: Petitioners' Response to Department's December 18, 2013 Questionnaire," dated December 20, 2013.

⁵ See Letter from the Department to Thareus, "Antidumping Duty Investigation of Welded Stainless Steel Pressure Pipe from Thailand: Third Section A Supplemental Questionnaire," dated December 18, 2013.

⁶ See Submissions from Ametai/Thareus, "Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation; Section A Supplemental Questionnaire Response," dated December 24, 2013, and "Welded Stainless Steel Pressure Pipe from Thailand; Antidumping Duty Investigation; Section A Supplemental Questionnaire Response," dated December 30, 2013.

⁷ See "Decision Memorandum for the Preliminary Determination of Antidumping Duty Investigation: Welded Stainless Pressure Pipe from Thailand," ("Preliminary Decision Memorandum") from Abdelali Elouaradia, Director, Office IV, Antidumping and Countervailing Duty Operations, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, dated December 30, 2013.

In reviewing Ametai/Thareus' December 24, 2013, and December 30, 2013, supplemental questionnaire responses, and Petitioners' December 13, 2013, and December 20, 2013, affiliation allegations, it was clear that there were unresolved affiliation issues. However, before we could issue an additional supplemental questionnaire, on January 3, 2014, Ametai/Thareus withdrew from participating in this investigation.⁸

On January 7, 2014, we published our Preliminary Determination. In the Preliminary Determination, the Department calculated a 7.16 percent margin for Ametai/Thareus, and included Ametai/Thareus' 7.16 percent preliminary margin in calculating the "all others" rate. On January 9, 2014, Petitioners stated that there were "strong indications of fraud and certification violations" and requested that the Department amend its Preliminary Determination and apply adverse facts available ("AFA") to Ametai/Thareus because they had significantly impeded the Department's investigation.⁹

In sum, the Department notes the following facts in this case: 1) Petitioners made certain affiliation allegations regarding Ametai/Thareus; 2) the Department issued Ametai/Thareus a supplemental questionnaire in response to Petitioners' affiliation allegations, to which Ametai/Thareus responded on December 24, 2013, and December 30, 2013; 3) after analyzing Ametai/Thareus' December 24, 2013, and December 30, 2013, responses, the Department determined that an additional supplemental questionnaire to Ametai/Thareus on certain affiliation issues was required in order to clarify the record; 4) on January 3, 2014, before we could issue the questionnaire, Ametai/Thareus withdrew from participating in this investigation;

⁸ See Submission from Ametai/Thareus, "Welded Stainless Pressure Pipe from Thailand: Notice of Intent Not to Participate in Antidumping Duty Investigation and Request of Removal from Public and APO Service Lists," dated January 3, 2014.

⁹ See Submission from Petitioners, "Welded Stainless Pressure Pipe from Thailand: Thareus: Request for Amended Preliminary Determination," dated January 9, 2014 at 2.

5) in the Preliminary Determination, the Department included Ametai/Thareus' 7.16 percent margin in calculating the "all others" rate; and 6) any change to Ametai/Thareus' preliminary margin will have a significant impact on the "all others" rate. In light of these facts, the Department finds it necessary to issue an amended preliminary determination.

Period of the Investigation

The period of investigation ("POI") is April 1, 2012, through March 31, 2013. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was May 2013.¹⁰

Scope of the Investigation

The merchandise covered by this investigation is circular welded austenitic stainless pressure pipe not greater than 14 inches in outside diameter. For purposes of this investigation, references to size are in nominal inches and include all products within tolerances allowed by pipe specifications. This merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A-312 or ASTM A-778 specifications, or comparable domestic or foreign specifications. ASTM A-358 products are only included when they are produced to meet ASTM A-312 or ASTM A-778 specifications, or comparable domestic or foreign specifications.

Excluded from the scope are: (1) Welded stainless mechanical tubing, meeting ASTM A-554 or comparable domestic or foreign specifications; (2) boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing, meeting ASTM A-249, ASTM A-688 or comparable domestic or foreign specifications; and (3) specialized tubing, meeting ASTM A269, ASTM A-270 or comparable domestic or foreign specifications.

¹⁰ See 19 CFR 351.204(b)(1).

The subject imports are normally classified in subheadings 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085 of the Harmonized Tariff Schedule of the United States (HTSUS). They may also enter under HTSUS subheadings 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the investigation is dispositive.

Adverse Facts Available

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply “facts otherwise available” if, inter alia, necessary information is not on the record or an interested party: (A) withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits, the Department may disregard all or part of the original and subsequent responses, subject to section 782(e) of the Act, as appropriate. Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a

reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

On January 3, 2014, Ametai/Thareus informed the Department that it would not continue to participate in the instant investigation. Pursuant to sections 776(a)(2)(C) and (D) of the Act, facts available is warranted in calculating the antidumping duty margin for Ametai/Thareus. We determined that Ametai/Thareus significantly impeded the proceeding by ceasing to participate in the instant investigation prior to the Department issuing an additional supplemental questionnaire on certain affiliation issues, thus preventing the Department from gathering additional facts on these affiliation issues and clarifying the record. Additionally, by ceasing its participation, Ametai/Thareus prevented the Department from conducting verification of the information the company submitted. For these reasons, we find that the use of facts available, pursuant to sections 776(a)(2)(C) and (D) of the Act is appropriate in determining the applicable dumping margin for Ametai/Thareus.

Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information.¹¹ In the instant case, we determined that applying section 776(b) of the Act is warranted for Ametai/Thareus. This determination is based on the fact that Ametai/Thareus' withdrawal from

¹¹ See Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from the Russian Federation, 65 FR 5510, 5518 (February 4, 2000); Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review, 62 FR 53808, 53819-20 (October 16, 1997); Crawfish Processors Alliance v. United States, 343 F. Supp.2d 1242 (CIT 2004) (approving use of AFA when respondent refused to participate in verification); see also Statement of Administrative Action, accompanying the Uruguay Round Agreements Act ("URAA"), H.R. Rep. No. 103-316, 870 (1994) ("SAA").

participation prevented the Department from fully investigating certain affiliation allegations and verifying the information submitted to the Department, thus constituting a failure of Ametai/Thareus to cooperate to the best of its ability.

Section 776(b) of the Act authorizes the Department to use, as AFA, information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. In selecting a rate for AFA, the Department selects one that is sufficiently adverse “as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.”¹² It is the Department’s practice to select, as AFA, the higher of the (a) highest margin alleged in the petition, or (b) the highest calculated rate for any respondent in the investigation.¹³ Accordingly, to ensure that the non-cooperative party, Ametai/Thareus, does not benefit from its lack of participation, and to select a sufficiently adverse rate to induce cooperation in the future, for the amended preliminary determination, we selected the higher of either the highest margin alleged in the petition or the highest weighted-average calculated rate for any respondent in the investigation. The weighted-average margins for Ametai/Thareus and the other mandatory respondent, Thai-German Products Public Company Limited (“TGP”), in the Preliminary Determination were less than the 24.01 percent margin from the petition. Therefore, consistent with its practice, the Department selected the highest margin alleged in the petition, which is 24.01 percent, as the AFA rate assigned to Ametai/Thareus.

¹² See Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan, 63 FR 8909, 8932 (February 23, 1998).

¹³ See Notice of Final Determination of Sales at Less Than Fair Value: Certain Orange Juice from Brazil, 71 FR 2183, 2185 (January 13, 2006).

Section 776(c) of the Act provides that, when the Department relies on secondary information in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. We have interpreted “corroborate” to mean that we will, to the extent practicable, examine the reliability and relevance of the information submitted to satisfy ourselves that the secondary information has probative value.¹⁴ In this instant case, to corroborate the 24.01 percent margin used as AFA for Ametai/Thareus, we relied on the pre-initiation analysis of the adequacy and accuracy of the information in the petition as well as transaction-specific margins¹⁵ for mandatory respondent TGP from the Preliminary Determination.¹⁶

During the initiation stage, we examined evidence supporting the calculations in the petition and the supplemental information provided by Petitioners to determine the probative value of the margins alleged in the petition.¹⁷ During our pre-initiation analysis, we examined the information used as the basis of export price and normal value (“NV”) in the petition, and the calculations used to derive the alleged margins.¹⁸ Also, during our pre-initiation analysis, we examined information from various independent sources provided either in the petition or, based on our requests, in supplements to the petition, which corroborated key elements of the export

¹⁴ See Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil: Notice of Final Determination of Sales at Less Than Fair Value, 65 FR 5554, 5568 (February 4, 2000).

¹⁵ These transaction-specific dumping margins are based on TGP’s sales of subject merchandise during the period under consideration. Therefore, the transaction-specific dumping margins higher than the petition rate of 24.01 percent reflects dumping that has already occurred and are based on rates using TGP’s pricing and cost information that was provided in this segment of the proceeding.

¹⁶ See Petitions for the Imposition of Antidumping Duties on Imports of Welded Stainless Pressure Pipe from Malaysia, Thailand, and Vietnam, dated May 16, 2013 (Petitions); see also Supplement to the Thailand Petition, dated May 24, 2013; Welded Stainless Pressure Pipe From Malaysia, Thailand, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations, 78 FR 35253 (June 12, 2013) (“Initiation Notice”); Antidumping Duty Investigation Initiation Checklist: Welded Stainless Pressure Pipe from Thailand (“Thailand Checklist”) dated June 5, 2013; TGP Preliminary Analysis Memorandum, dated December 30, 2013.

¹⁷ See Thailand Checklist

¹⁸ Id.

price and NV calculations.¹⁹ Therefore, for the final determination, the Department finds that the rates derived from the petition for purposes of initiation have probative value for the purpose of being selected as the AFA rate assigned to Ametai/Thareus. In addition, transaction-specific margins from TGP from the Preliminary Determination which are higher than the petition rate of 24.01 percent also corroborate the petition rate.

All Others Rate

The “All Others” rate is derived exclusive of all de minimis or zero margins and margins based entirely on AFA. In the Preliminary Determination, the Department calculated the “all others” rate, in part, based on Ametai/Thareus’ Preliminary Determination rate. In light of Ametai/Thareus’ withdrawal from the investigation and the Department’s subsequent application of total AFA, this methodology for calculating the “all others” rate is no longer appropriate. In this case, there is another mandatory respondent, TGP, which received a calculated rate. Therefore, consistent with Department practice, we will apply TGP’s rate as the “all others” rate in this amended preliminary determination.²⁰

Amended Preliminary Determination Margins

The Department determined that the following amended preliminary dumping margins exist for the POI:

Manufacturer/Exporter	Weighted-Average Dumping Margin (%)
Ametai Co., Ltd./Thareus Co., Ltd.	24.01
Thai-German Products Public Company Limited	10.92*
All Others	10.92

* Unchanged from the Preliminary Determination.

¹⁹ Id.

²⁰ See Notice of Final Determination of Sales at Less Than Fair Value: Citric Acid and Certain Citrate Salts from Canada, 74 FR 16843 (April 13, 2009).

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing U.S. Customs and Border Protection (“CBP”) to suspend liquidation of all entries of WSPP from Thailand, as described in the scope of the investigation section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*.

Pursuant to 19 CFR 351.205(d), we will instruct CBP to require a cash deposit²¹ equal to the weighted-average amount by which the NV exceeds Export Price, as indicated in the chart above. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we notified the International Trade Commission (“ITC”) of our amended preliminary determination. If our final determination is affirmative, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of WSPP from Thailand, or sales (or the likelihood of sales) for importation, of the subject merchandise within 45 days of our final determination.

²¹ See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations, 76 FR 61042 (October 3, 2011).

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

February 20, 2014
Date

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